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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/685,134
	Filing Date	10/14/2003
	First Named Inventor	James F. Zucherman
	Art Unit	3731
	Examiner Name	Jessica R. Baxter
Total Number of Pages in This Submission	Attorney Docket Number	KLYCD-05009US1

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)  Remarks	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Copy of European Search Report

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual name	Suvashis Bhattacharya Fliers Meyer LLP	Customer Number: 23910
Signature	<i>S. Bhattacharya</i>	Reg. No.: 46,554
Date	11/29/04	

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.		
Typed or printed name	Suvashis Bhattacharya	
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This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket No.: KLYCD-05009US1  
sbhattacharya/klycd/5009us1/5009us1.trans.pdf

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /M.H./



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): James F. Zucherman, et al.

Appl. No.: 10/685,134

Confirm. No.: 4485

Filed: October 14, 2003

Title: TOOLS FOR IMPLANTING AN ARTIFICIAL  
VERTEBRAL DISK AND METHOD

PATENT APPLICATION

Art Unit: 3731

Examiner: Jessica Baxter

Customer No. 23910

**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8**

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*S. Bhattacharya*

(Attorney Signature)

Suvashis Bhattacharya, Reg. No. 46,554

Signature Date: November 29, 2004

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

***Enclosed with this statement are the following:***

- ☒ Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with M.P.E.P. §609.
- ☒ The present application is being/was filed after June 30, 2003. In accordance with the pre-official gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at: [pac/dapp/opla/preognotice/idswouscopies.htm](http://pac/dapp/opla/preognotice/idswouscopies.htm), copies of cited U.S. patents and publications are not enclosed. However, copies of cited foreign patent documents and non-patent literature are enclosed in accordance with 37 CFR 1.98(a)(2), as still required, except for those items designated by an asterisk (\*), which were previously submitted by the applicant in a parent application, from which benefit under 35 U.S.C. §120 is claimed, with an *Information Disclosure Statement* submitted in the parent application which

complies with the September 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c), as allowed under 37 C.F.R. §1.98(d)(1).

— The present application was filed prior to June 30, 2003. A copy of each cited document as required by 37 C.F.R. §1.98 is enclosed, except for those items designated by an asterisk (\*), which were previously submitted by the applicant in a parent application, from which benefit under 35 U.S.C. §120 is claimed, with an *Information Disclosure Statement* submitted in the parent application which complies with the September 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c), as allowed under 37 C.F.R. §1.98(d)(1).

✓ If any of the cited/submitted documents is in a foreign language, a concise explanation of relevance is provided pursuant to 37 C.F.R. §1.98(a)(3)(i). For foreign language documents cited in a search report by a foreign patent office, the requirement for a concise explanation of relevance is satisfied by the submission herewith of an English language version of the search report. MPEP §609A(3). If a written English-language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in §1.56(c), a copy of the translation accompanies this statement, 37 C.F.R. §1.98(a)(3)(ii), and satisfies the requirement for a concise explanation of relevance, MPEP §609A(3).

— *PTA Statement under 37 C.F.R. §1.704(d)*. Each item of information contained in the *Information Disclosure Statement* was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the *Information Disclosure Statement*.

*This statement should be considered because:*

✓ **37 C.F.R. §1.97(b)**. This statement qualifies under 37 C.F.R. §1.97, subsection (b) because:

- (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under §1.53(d);  
-- OR --
- (2) It is being filed within 3 months of entry of a national stage;  
-- OR --
- (3) It is being filed before the mailing date of the first Office Action on the merits,  
-- OR --
- (4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 C.F.R. §1.114.

— **37 C.F.R. §1.97(c)**. Although it may not qualify under subsection (b), this statement qualifies under 37 C.F.R. §1.97, subsection (c) because:

- (1) It is being filed before the mailing date of a FINAL Office Action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.

-- AND (check at least one of the following) --

- (1) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e).

-- OR --

— (2) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

— 37 C.F.R. §1.97(d). Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 C.F.R. §1.97, subsection (d) because:

- (1) It is being filed on or before payment of the Issue Fee;
- AND --
- (2) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e);
- AND --
- (3) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

✓ **Fee Authorization.** The Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

FLIESLER MEYER LLP

Date: 11/29/04

By: S. Bhattacharya  
Suvashis Bhattacharya  
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35 U.S.C. § 1449 (Substitute)	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	Attorney Docket Number KLYCD-05009US1	Serial/Patent Number 10/685,134
<b>Information Disclosure Statement</b> <b>BY APPLICANT</b> (Use several sheets if necessary)		Applicant/Patent Owner James F. Zucherman, et al.	
		Filing/Issue Date October 14, 2003	Group Art Unit 3731

### U.S. PATENTS

Examiner Initial		Patent Number	Issue Date	First Named Inventor	Class	Subclass	Filing Date
	1.	2,677,369	05/04/1954	Fred L. Knowles	128	92	03/26/1952
	2.	3,648,691	03/14/1972	William V. Lumb	128	92	02/24/1970
	3.	5,011,484	04/30/1991	Francis H. Breard	606	61	10/10/1989
	4.	5,496,318	03/05/1996	Robert S. Howland	606	61	08/18/1993
	5.	5,609,634	03/11/1997	Gilles Voydeville	623	17	06/30/1993

### U.S. PATENT PUBLICATIONS

Examiner Initial		Patent Application Publication Number	Publication Date	Applicant

### PENDING U.S. PATENT APPLICATIONS

Examiner Initial		Application Number	Filing Date	First Named Inventor	Petition to Expunge? Yes   No

### FOREIGN PATENT DOCUMENTS

Examiner Initial		Document Number	Publication Date	Country	Class	Subclass	Translation Yes   No
	6.	EP 0322334	06/28/1989	Europe	A61F	5/02	✓
	7.	FR 2724554	03/22/1996	France	A61B	17/70	✓
	8.	FR 2722088	01/12/1996	France	A61B	17/70	✓

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Attorney Docket No.: KLYCD -05009US1  
 SBhattacharya/KLYCD/5009US1.IDS.4

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ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /M.H./



	FR 2705227	11/25/1994	France	A61F	2/44, 2/46	✓	
10.	FR 2722980	07/26/1994	France	A61F	2/44	✓	
11.	DE 3113142	01/14/1982	Germany	A61B	17/18	✓	
12.	GB 780652	08/07/1957	Great Britain	A61F		✓	

**OTHER DOCUMENTS** (Include author (if any), title, publisher and place of publication, date and pertinent pages)

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Examiner /Mary Hoffman/

Date Considered 9/28/2008

\*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

\*1 = Copy not submitted because it was submitted in prior application SN / \_\_\_\_\_, filed \_\_\_\_\_, 20\_\_\_\_, relied on under 35 USC §120.

\*2 = Copy not submitted because it was submitted in prior application SN / \_\_\_\_\_, filed \_\_\_\_\_, 20\_\_\_\_, relied on under 35 USC §120.